

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS  
COMMISSION  
SECRETARY

In the Matter of )  
VICKSBURG VIDEO, INC., )  
Complainant, )  
v. )  
SOUTH CENTRAL BELL TELEPHONE COMPANY, )  
Respondent. )

File No. PA-107

DOCKET FILE COPY ORIGINAL

To: Common Carrier Bureau

COMPLAINT

1. Complainant Vicksburg Video, Inc. owns and operates a cable television system serving the City of Vicksburg, Mississippi. The address of Complainant is P.O. Box 1276, Vicksburg, Mississippi 39180.

2. Respondent South Central Bell Telephone Company is engaged in the provision of telephone service in portions of the State of Mississippi, including the City of Vicksburg. Respondent's general office address is 600 North 19th Street, Birmingham, Alabama 35203 (Attn: Jan Curtis).

Jurisdiction

3. The Commission has jurisdiction over this Complaint and over Respondent pursuant to Section 224 of the Communications Act of 1934, as amended, 47 U.S.C. § 224.

4. Respondent owns or controls utility poles in the City of Vicksburg and other parts of Mississippi. Those poles are used for purposes of wire communications. Respondent is

not owned by any railroad, any entity that is cooperatively organized or any entity owned by the federal government or any state.

5. Neither the State of Mississippi nor any of its political subdivisions, agencies or instrumentalities currently regulates the rates, terms or conditions of pole attachments in the manner prescribed by 47 U.S.C. § 224.

Agreement

6. Complainant has entered into a pole attachment Agreement with Respondent, whereby Respondent has agreed that space would be made available on Respondent's poles in Vicksburg for pole attachments as defined in 47 C.F.R. § 1.1402(b). See Exhibit A. By letter dated May 15, 1991, Respondent notified Complainant that it would charge an annual per pole rental fee of \$6.55 for the period July 1, 1991 through June 30, 1992, payable semiannually with the first six-month installment of \$3.28 per pole in July 1991. Id. Respondent currently bills Complainant for use of space on 2,817 poles. For the 12-month period ending June 30, 1991, Respondent charged Complainant an annual rate of \$4.98 per pole. For the first six months of 1990, the annual rate was \$2.84 per pole. See Exhibit B. Thus, since June 1990 Respondent's pole attachment rental rates have much more than doubled.

Areas of Dispute

7. Complainant, on information and belief, alleges that Respondent seeks to justify its \$6.55 rate as follows:

Net Investment Per Bare Pole		\$163.04
Carrying Charges		
Maintenance	16.85%	
Depreciation	10.56%	
Administration	7.11%	
Taxes	7.68%	
Cost of Capital	<u>11.99%</u>	
	54.19%	x 54.19%
Use Ratio		<u>x 1/13.5</u>
		\$ 6.55

8. For the reasons set forth in the attached Complaint of UACC Midwest, Inc., d/b/a United Artists Cable Mississippi Gulf Coast v. South Central Bell Telephone Company, FCC File No. PA-\_\_\_\_, which is hereby incorporated by reference (see Exhibit C hereto), Complainant alleges that the maintenance expense component should not exceed 2.17%, that the administrative component should not exceed 5.96%, and that the cost of capital component should not exceed 11.24%. The product of Respondent's net investment per base pole, times the recalculated annual carrying charges, times the use ratio of 1/13.5 results in a maximum lawful annual rental rate of no more than \$4.54 per pole.

9. Complainant alleges that the information set forth in the UACC Midwest Complaint has previously been submitted to Respondent and that Respondent has steadfastly refused to compromise the dispute with the very limited

exception of the cost of capital (11.24% versus 11.99%). See Exhibit C, UACC Midwest Complaint, ¶ 15.

Unjust and Unreasonable Rate

10. Respondent's proposed \$6.55 rate is unjust and unreasonable and therefore unlawful because it exceeds the maximum just and reasonable rate under 47 U.S.C. § 224(b)(1).

Settlement Efforts

11. Inasmuch as Respondent has steadfastly refused to compromise the \$6.55 rate to \$4.54 with UACC Midwest, it is clear that Respondent would not compromise the \$6.55 rate to \$4.54 for Complainant and therefore settlement efforts would be fruitless.

Relief Requested

12. Complainant respectfully requests that:

a. The Commission determine that the maximum annual rate per pole Respondent may lawfully charge is \$4.54.

b. The present rate, being in excess thereof, be terminated pursuant to 47 C.F.R. § 1.1410(a);

c. The Commission, pursuant to 47 C.F.R. § 1.1410(b), substitute an annual rate of \$4.54 per pole in the Agreement; and

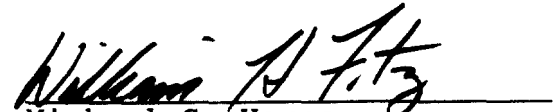
d. Respondent be ordered, pursuant to 47 C.F.R. § 1.1410(c), to refund to Complainant the amounts it

has paid or, prior to a final resolution of this Complaint will pay, to Respondent in excess of the maximum lawful rate, plus interest.

Respectfully submitted,

VICKSBURG VIDEO, INC.

By:

  
Michael S. Horne  
William H. Fitz

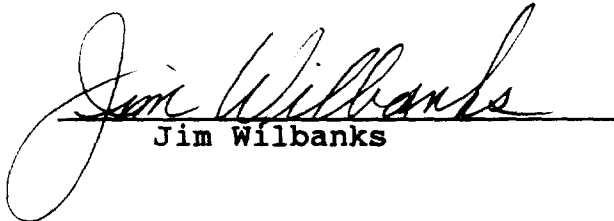
COVINGTON & BURLING  
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P.O. Box 7566  
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(202) 662-5288

Its Attorneys

September 30, 1991

STATE OF ARKANSAS       )  
                                  )  
COUNTY OF PULASKI     )       ss:

I, Jim Wilbanks, Vice President-Operations of Vicksburg Video, Inc., on oath do state that I have read the foregoing complaint, that I am familiar with the matters contained therein and know the purpose thereof; and that the facts set forth therein are true and correct to the best of my knowledge, information and belief.

  
Jim Wilbanks

Subscribed and sworn to before me  
this 27th day of September, 1991.

  
Notary Public